

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr.No.275

CRM-M-9949-2018 (O & M)

Date of Decision:15.01.2019

Bhupinder Kumar

....petitioner

Versus

State of Haryana and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.J.S.Dadwal, Advocate
for the petitioner

Mr.Arun Kumar, AAG Haryana

Mr.Sanjeev Kumar, Advocate
for respondent Nos.2 to 4

ARVIND SINGH SANGWAN, J. (ORAL):

CRM-44243-2018

Application is allowed as prayed for. Certified copy of the statement of Meenakshi wife of Ajay Sharma, General Power of Attorney of respondent No.4, recorded before the trial Court is taken on record. The Special Power of Attorney executed by respondent No.4 in favour of Meenakshi wife of Ajay Sharma, is also taken on record.

CRM stands disposed of.

CRM-M-9949-2018

By invoking Section 482 Cr.P.C., the petitioner has prayed for quashing of FIR No.48 dated 26.02.2018 for offence punishable under

Sections 279/337 of the Indian Penal Code, 1860, registered with Police Station Ambala Sadar, District Ambala and proceedings emanating therefrom on the basis of compromise (Annexure P2) arrived at between the parties.

In pursuance to the order dated 09.03.2018, the trial Court has submitted a report dated 10.07.2018 after recording the statement of Arun Kumar-respondent No.2, for himself and as a guardian of his minor daughter Ms.Leena. In his statement, it is stated that he and his daughter suffered injuries in an accident and the impugned FIR was registered on the basis of the same and he has entered into the compromise with petitioner/accused vide compromise Ex.C1 and he has received the compensation for the same and he do not want to take any action against the petitioner and he has no objection if the FIR is registered.

Similar statement was made by another injured Nagender Dutt, through his General Power of Attorney Meenakshi wife of Ajay Sharma, that he has received the adequate compensation and he do not want to proceed with the impugned FIR and has no objection if the same is quashed.

I have heard counsel for the parties and perused the case file.

As per the Full Bench judgment of this Court in ***“Kulwinder Singh and others vs State of Punjab”***, 2007 (3) RCR (Criminal) 1052, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power

of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of “**Gian Singh vs State of Punjab and another**”, 2012 (4) RCR (Criminal) 543, has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for

the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.48 dated 26.02.2018 for offence punishable under Sections 279/337 IPC registered with Police Station Ambala Sadar, District

Ambala and all subsequent proceedings arising therefrom, are ordered to be quashed, *qua* the petitioner.

(ARVIND SINGH SANGWAN)
JUDGE

15.01.2019

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Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No